No. 45768-7-II

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION TWO

STATE OF WASHINGTON,

Respondent,

v.

BRUCE J. LENNARTZ,

Appellant.

ON APPEAL FROM THE SUPERIOR COURT OF THE
STATE OF WASHINGTON FOR THURSTON COUNTY

The Honorable Gary R. Tabor, Judge
Cause No. 13-1-01066-0

BRIEF OF RESPONDENT

Carol La Verne
Attorney for Respondent

2000 Lakeridge Drive S.W.
Olympia, Washington 98502
(360) 786-5540

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2. Whether the prosecutor's closing argument denied Lennartz a fair trial on the charge of tampering with a witness.

3. Whether defense counsel was ineffective because he failed to object to comments made by the prosecutor in closing argument.

B. STATEMENT OF THE CASE.

The State accepts Lennartz's statement of the substantive and procedural facts of the case.

C. ARGUMENT.

1. While there may be more than one way to interpret it, the evidence presented at trial was sufficient to support the defendant's conviction for witness tampering.

Lennartz was charged with tampering with a witness, Doresa Klampe. CP 77. At trial, the State offered the recordings of four telephone calls that Lennartz made from the jail to Klampe, RP 317-43, 346-56, as well as photos of several text messages sent from Lennartz's phone to Klampe. RP 271-76. In addition, the State offered a recorded statement given by Klampe under oath; the court admitted it as substantive evidence. RP 233. Exhibit 26,

in this record, is a transcript of that statement. The audio recording was admitted as Exhibit 25. RP 231.

Evidence is sufficient to support a conviction if, viewed in the light most favorable to the prosecution, it permits any rational trier of fact to find the essential elements of the crime beyond a reasonable doubt. State v. Salinas, 119 Wn.2d 192, 201, 829 p.2d 1068 (1992). "A claim of insufficiency admits the truth of the State's evidence and all inferences that reasonably can be drawn therefrom." Id. Circumstantial evidence and direct evidence are equally reliable. State v. Delmarter, 94 Wn.2d 634, 638, 618 P.2d 99 (1980). In determining whether the necessary quantum of proof exists, the reviewing court need not be convinced of the defendant's guilt beyond a reasonable doubt, but only that substantial evidence supports the State's case. State v. Galisia, 63 Wn. App. 833, 838, 822 P.2d 303 (1992). Credibility determinations are for the trier of fact and are not subject to review. State v. Camarillo, 115 Wn.2d 60, 71, 794 P.2d 850 (1990). A reviewing court defers to the trier of fact on issues of conflicting testimony, credibility of witnesses, and the persuasiveness of the evidence. State v. Walton, 64 Wn. App. 410, 415-16, 824 P.2d 533 (1992).

Witness tampering is prohibited by RCW 9A.72.120(1)(a). The jury was instructed regarding that charge as follows:

> A person commits the crime of tampering with a witness when he or she attempts to induce a witness or person he or she has reason to believe is about to be called as a witness in any official proceeding or a person whom he or she has reason to believe may have information relevant to a criminal investigation to testify falsely or, without right or privilege to do so, to withhold any testimony.

Instruction No. 15, CP 109.

> To convict the defendant of the crime of tampering with a witness as charged in Count II, each of the following elements of the crime must be proved beyond a reasonable doubt:
>
> (1) That on or between July 13, 2013 and December 12, 2013, the defendant attempted to induce a person to testify falsely, or without right or privilege to do so, withhold any testimony relevant to a criminal investigation; and
>
> (2) That the other person was a witness or a person the defendant had reason to believe was about to be called as a witness in any official proceedings or a person whom the defendant had reason to believe might have information relevant to a criminal investigation; and
>
> (3) That any of these acts occurred in the State of Washington.

Instruction No. 16, CP 109-110.

On July 21, 2013, Klampe reported to the Sheriff's Office that Lennartz was contacting her in violation of a protection order. RP 227. Deputy Ryan Russell took a recorded statement from her,

Because the statement was made under penalty of perjury, the court admitted it as substantive evidence rather than impeachment. RP 233.

In the recorded statement, Klampe was asked if, in the text messages and phone calls, Lennartz had tried to convince her to change her story. She replied:

> He has been coercing me and he texted saying that I caused all this trouble, that I need to go down to the courthouse and I need to fix it, and so, you know, things like that.

Exhibit 26 at 4. When asked if any of the messages were threatening in nature, Klampe responded:

> In a vague sense that only I would understand, knowing him like I do . . . .

Exhibit 26 at 3.

In one of the text messages admitted into evidence, Lennartz said, "It's our fault. That's what I'm saying, our fault, not mine or yours, ours. That's what you should say, too." RP 275.

Detective David Claridge testified that he listened to the phone calls made to both of the numbers identified as belonging to Klampe from the Thurston County Jail during the time Lennartz was incarcerated. RP 301-02, 305. There were 25 to 29 completed calls to one number and 10 or 12 to the other. RP 302, 304.

Recordings of four of the calls were admitted into evidence.[1] RP 317-43, 346-56.

Lennartz takes issue with the prosecutor using his admission that he texted Klampe as evidence that he violated the no contact order, yet arguing that his urging Klampe to tell the truth was a disguised method of telling her to change her story. Appellant's Opening Brief at 11. He does not explain why that is improper or incorrect. The evidence was overwhelming that Lennartz had texted Klampe many times. It is not unreasonable for the prosecutor to argue that some of the things he said in the phone calls were true and others were not. It is very plausible that Lennartz would admit to the obvious, yet use oblique or coded language to convey to Lampe the message that he wanted her to change her account of what happened to her. In relation to the threats she received, Lampe told the police, "In a vague sense that only I would understand, knowing him like I do, he might not come right out and say, I'm coming over there, I'm going to kill you . . . " Exhibit 26 at 3. It would be consistent for Lennartz to use the same

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1 Lennartz finds it beyond question that the other phone calls had nothing to do with the case since they were not offered into evidence. Appellant's Opening Brief at 9. It is more likely that offering additional calls would merely have been cumulative. RP 413 ("[D]espite our efforts to not subject you to hours and hours of calls, four calls still were pretty long.")

technique when pressuring Lampe to offer an explanation that did not incriminate him. Tone of voice, inflection, and cadence do not come across in a written transcript, which is one of the reasons that credibility determinations are not reviewable. It is reasonable to infer that intimate relationships have their own history, and one party to it can clearly understand a message that is not obvious to outsiders from the plain language used.

It is proper to ask a jury to consider the inferential meaning as well as the literal meaning of Lennartz's conversations with Lampe, in addition to the context of those conversations. State v. Rempel, 114 Wn.2d 77, 83-84, 785 P.2d 1134 (1990). In the October 10, 2013, phone call, Lennartz repeatedly urged Lampe to contact the prosecutor in an effort to get her to drop the charges[2] and to rescind the no contact order, and to say something that was not true ("Tell them it was them texting me on your phone.") RP 324-26. Klampe made Kennartz aware that she had picked up on his meaning. "It could have been anybody. I have texted on your phone before." RP 326. In the October 12 phone call, Lennartz returned to the subject of his text messages and said, "As far as me

2 Asking a witness to seek to get charges dropped does not by itself constitute witness tampering. Rempel, 114 Wn.2d at 84.

texting stuff like that, you know, Sammy had your phone too, or had a phone too, right?" RP 330.

Lennartz's manipulation of Lampe comes across even in the transcript of the phone calls. During the call on October 10, Lennartz tells her that he wants the charges dropped, or at least the domestic violence allegations. RP 324. He tells her to "just do all you can do, okay?" RP 325. When Lampe says she is trying, he then says, ""How are you trying? Who you been talking to?"; "I mean how are you trying?"; "Keep trying, honey, keep trying."; "Keep trying." RP 325. During the call on October 12, Lennartz played on Lampe's sympathy by complaining he didn't have a retained attorney and saying, "I want to get out of this thing, you know." RP 330. "I want you to set up, honey, I'm tired of this." RP 331. He promised to give up drinking and using drugs, and under the guise of explaining his renewed religious faith, attempted to make Lampe feel guilty. "We abused each other. We committed adultery." RP 335. He appealed to her sympathy again. "Just like you, you're helping me, you'll help anybody I know you will." RP 336.

In the phone call of October 14, Lennartz again cast himself in the role of a victim. People were lying about him and stealing his

property, RP 340, but he had maintained his silence about being abused. RP 341. Then he raised the subject of the injuries to Lampe, referring to her in the third person, clearly waiting for her to offer an explanation. Lampe understood the cue, and said, "Probably from when she—probably—when she broke through the window out that day to get in there that day when she locked her keys in. Crawled through the window and she fell, fell." RP 341. Lennartz then tells Lampe the version he is going to tell, that she was drinking whiskey in the trailer, he woke from a nap, and asked about a delivery of wood. She tried to hit him and somehow the phone was thrown and the battery came out. Then he threatens to "take out" several people. RP 342. Coincidentally, Lampe testified at trial that she threw the phone at Lennartz and the battery popped out, RP 146, even though in her interview with the police the day of the incident she said, while she was crying, that Lennartz had grabbed her hand which was holding the phone and smashed it until the phone broke. Exhibit 23 at 1.

In the final phone call admitted into evidence, which took place on October 22, Lennartz told Lampe that he was now aware that the police knew of the second phone number Lampe had obtained. "They have everything, you know what I mean?" RP

349. Then he said, "So, I just want tell (sic) somebody to tell the truth, or just tell what the hell happened, you know what I mean?" RP 349. He was annoyed that she had not spoken to the defense investigator, RP 350, and told her to do so. RP 351. Lennartz made his message clear: "If somebody don't speak up, somebody lies, somebody got hurt some other way, you know, it's making me look bad (inaudible). You know, I don't know what to do, hon. You there?" RP 350. Since Lampe was the only person who was injured, he could only have been talking about her. Using the third person would have emphasized the underlying message. He added to the pressure by saying, "Well, what's right right now is fighting something that somebody put me in here, okay?" Later in that conversation Lennartz told Lampe what story to tell. ""All I did is asked yo[u] if you sold wood to a customer and then you raged, started yelling and screaming. I just took off. I don't understand why you're sitting in a bar at a (inaudible) I don't understand that, (inaudible) I don't anyway." RP 352. If that were indeed what actually happened, Lennartz would have no need to rehearse the story with Lampe. Lampe responded by saying, "I'll do whatever it takes, I swear I will," RP 353, even though she was afraid if she told "the truth" she would go to jail. RP 354. Then, apparently still

mindful that the call was recorded, Lennartz said that "somebody" said she got the injuries by going through a window, even though it was Lampe herself who had offered that explanation in the earlier call. RP 355. Once again, Lennartz urges her to speak to the defense investigator. RP 355-56.

At the end of three of the calls, Lennartz tells Lampe that he loves her. RP 328, 338, 355. The call on October 14 appears to have terminated midsentence, just after Lennartz told Lampe that he had worked extremely hard at his business and "I just wanted to help you, okay?" RP 343. It is an obvious inference that Lennartz was attempting to keep Lampe emotionally tied to him so she would do as he wanted.

The State did indeed ask the jury to draw inferences from the evidence. That is what circumstantial evidence is all about. "A prosecutor has wide latitude in closing argument to draw reasonable inferences from the evidence and to express such inferences to the jury." State v. Boehning, 127 Wn. App. 511, 519, 111 P.3d 899 (2005). Here the prosecutor argued to the jury the inference the State drew from the evidence, and Lennartz argued his interpretation. In this appeal, he argues that his interpretation does not constitute tampering with a witness. Appellant's Opening

Brief at 12. That is true; his interpretation does not. But the jury rejected that interpretation and found him guilty of witness tampering.

Lennartz argues that the prosecutor improperly asked the jury to speculate that the letters to which Lennartz referred in the telephone calls but which were not offered into evidence, were further efforts to induce Lampe to change her testimony. Appellant's Opening Brief at 11-12; RP 416-17. RP 412. Toward the end of the October 10 phone call, Lennartz said, "I'll write you a couple love letters. I'll send you a couple letters, okay? . . . I won't mail them till Saturday." RP 327. At no other time in the calls admitted into evidence does he mention letters to Lampe. His repetition of the statement indicates he wanted to be sure Lampe paid attention to it, and it is a fair inference that he was indicating to her that he would be saying something of importance in those letters. He knew the call was being recorded, because there was an announcement at the beginning of the call. RP 316. He knew to be careful about what he said on the telephone.

Taking this evidence and the reasonable inferences from it in the light most favorable to the State, as a reviewing court must, there was sufficient evidence to support the conviction for

tampering with a witness. While a reasonable jury might have found otherwise, a reasonable jury could have found Lennartz guilty of that offense.

2. The prosecutor's closing argument did not deprive Lennartz of a fair trial.

Lennartz argues that the prosecutor's closing argument constituted prosecutorial misconduct and deprived him of a fair trial in two different ways.

A defendant who claims prosecutorial misconduct must first establish the misconduct, and then its prejudicial effect. State v. Dhaliwal, 150 Wn.2d 559, 578, 79 P.3d 432 (2003) (citing to State v. Pirtle, 127 Wn.2d 628, 672, 904 P.2d 245 (1995)). "Any allegedly improper statements should be viewed within the context of the prosecutor's entire argument, the issues in the case, the evidence discussed in the argument, and the jury instructions." Dhaliwal, 150 Wn.2d at 578. Prejudice will be found only when there is a "substantial likelihood the instances of misconduct affected the jury's verdict." Id. A defendant's failure to object to improper arguments constitutes a waiver unless the statements are "so flagrant and ill-intentioned that it causes an enduring and resulting prejudice that could not have been neutralized by a

curative instruction to the jury." Id. "Counsel may not remain silent, speculating upon a favorable verdict, and then, when it is adverse, use the claimed misconduct as a life preserver on a motion for new trial or on appeal." Jones v. Hogan, 56 Wn.2d 23, 27, 351 P.2d 153 (1960). The absence of an objection by defense counsel "strongly suggests to a court that the argument or event in question did not appear critically prejudicial to an appellant in the context of the trial." State v. Swan, 114 Wn.2d 613, 661, 790 P.2d 610 (1990).

A prosecutor has wide latitude in arguing inferences from the evidence. It is not misconduct to argue facts in evidence and suggest reasonable inferences from them. Unless he unmistakably expresses a personal opinion, there is no error. Spokane County v. Bates, 96 Wn. App. 893, 901, 982 P.2d 642 (1999). A prosecutor may comment on the veracity of a witness as long as he does not express a personal opinion or argue facts not in the record. State v. Smith, 104 Wn.2d 497, 510-11, 707 P.2d 1306 (1985).

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a. The prosecutor did not mischaracterize the evidence. Any error in the prosecutor's factual argument was minor and did not affect the verdict. The prosecutor told the jury to rely on its own memory of the facts, not hers.

Lennartz maintains that the prosecutor's "subtle omission" in quoting him speaking to Klampe was such a mischaracterization that the jury was misled about the facts of the case. Appellant's Opening Brief at 16-17. The prosecutor quoted Lennartz in the October 12th call as saying "As far as me texting, Sammy had your phone too, right?" RP 413. The entire quote was "And as far as me texting stuff like that, you know, Sammy had your phone too, or had a phone too, right?" RP 330. Lennartz does not explain how this makes a difference at all, much less a prejudicial difference.

Lennartz also claims error when the prosecutor argued:

> But we know that on October the 10th the defendant said, "Tell him it wasn't even you I was texting." And this happened during the time when he was talking about you need to write a letter to the prosecutor. You need to write a letter to the judge. It was right after he said, "You need to write a letter to the prosecutor." He said, "Tell him it wasn't even you I was texting."

RP 412-13. The exact quote from the telephone call was "Tell them we'll both go through counseling, tell them, tell them you know I

was texting. Tell them it was them texting me on your phone." RP 325-26. Just before that Lennartz had urged Klampe to "Try to get a hold of that gal, try to write a letter to the judge or prosecutor saying we'll go to classes together, they have to drop the domestic deal." RP 324. Although the prosecutor's quote was not word for word the same as what Lennartz said, the gist was still the same.

Lennartz does not claim that the prosecutor misstated the law, only the facts. The jury was instructed that the statements of the lawyers were not evidence. Instruction No. 1; CP 103. At the beginning of her closing argument, the prosecutor said:

> I want to remind you that you (sic) the lawyers' statements, and those will be my statements during my arguments and [defense counsel's] statements, they're not evidence. . . . You need to rely on your notes and memories of the testimony that was presented. Obviously, I'm going to be referring to specific pieces of evidence, the testimony that you heard, and, of course, I'm going to be relying on my own memory of what happened in the courtroom as I make my argument, but don't substitute my statements for your own memories.

RP 397.

Given the jury instruction, the prosecutor's disclaimer, and the minor differences between the prosecutor's quotes and what Lennartz actually said, the jury could not possibly have been misled about the evidence. There was no error and no prejudice.

Reversible error does not occur just because a prosecutor makes a mistake. It is when the defendant is deprived of a fair trial that he gets a new one. State v. Fisher, 165 Wn.2d 727, 740 n. 1, 202 P.3d 937 (2009). An error is harmless "'unless, within reasonable probabilities, had the error not occurred, the outcome of the trial would have been materially affected.'" State v. Smith, 106 Wn.2d 772, 780, 725 P.2d 951 (1986) (quoting State v. Cunningham, 93 Wn.2d 823, 831, 613 P.2d 1139 (1980)). Here, if there was error, it was harmless.

Lennartz cites several cases to support his argument, but in those cases the prosecutor misstated the law, not the facts. In State v. Emery, 174 Wn.2d 742, 278 P.3d 653 (2012), the prosecutor told the jury it was its job to determine the truth. Id. at 751. This was not reversible error. Id. at 765. The prosecutor commented on the defendant's silence in State v. Easter, 130 Wn.2d 228, 234, 922 P.2d 1285 (1996). In State v. Guloy, 104 Wn.2d 412, 705 P.2d 1182 (1985) there was a confrontation clause violation, which was found to be harmless error. Id. at 426. Boehning, 127 Wn. App. 511, involved an argument where the prosecutor talked about facts not in evidence. Id. at 522-23. Here there was at most a minor misstatement of two or three facts,

preceded by an admonishment to the jury that it rely on its memory, not the prosecutor's. It is true that a prosecutor may not appeal to the passions or prejudice of the jury. State v. Thach, 126 Wn. App. 297, 316, 106 P.3d 782 (2005). The arguments of which Lennartz complains do not do that. There was no error.

b. The "golden rule" argument.

Lennartz argues that the prosecutor improperly invoked the "golden rule" at two places in her argument, the first in closing and the second in rebuttal.

> In addition, we have over 100 attempted phone calls during this period of time. You can imagine, I submit to you, that it would be quite influencing to have your phone ringing from the Thurston County Jail over 100 times over a period of a few months knowing that the defendant can contact you, knowing that as you're about to testify that the defendant is still trying to contact you and what sort of affect (sic) that had on Mrs. Klampe.

RP 418-19.

> So you have to ask yourself if you were in her position, in her shoes, not in yours but in hers, you were homeless where the defendant provided you a place to live, the defendant has dirt on you, apparently, apparently has some dirt on some people you hang out with, ask yourselves why she maybe was motivated to change her story.

RP 450. Lennartz did not object to either of these arguments.

In Adkins v. Aluminum Company of America, 110 Wn.2d 128, 750 P.2d 1257 (1988), the Supreme Court found it was improper argument for counsel in a civil case to ask the jurors to place themselves in the position of one of the litigants and decide the case based upon what they would want under those circumstances. Id. at 140. Lennartz's case, of course, is a criminal case and Kampe was not a party to the litigation. Further, our Supreme Court has never applied the golden rule prohibition to a criminal case. State v. Borboa, 157 Wn.2d 108, 124 n. 5, 135 P.3d 469 (2006) ("[W]e are not convinced that the prohibition on "golden rule" arguments applies in the criminal context . . ."); State v. Rice, 110 Wn.2d 577, 607 n. 17, 757 P.2d 889 (1988) ("[T]he considerations in a civil case and those in a criminal case, especially a death penalty hearing, are substantially different."). In light of that, this court has analyzed such arguments "as appeals to the jury's passion and prejudice." State v. Pierce, 169 Wn. App. 533, 555 n. 9, 280 P.3d 1158 (2012).

The prosecutor's arguments to which Lennartz objects do not really ask the jurors to place themselves in the position of the victim. Rather, taking these comments in context, they ask the jurors to evaluate the victim's fears and mindset in light of her

situation and their own experiences, *i.e.*, "what sort of effect that had on Mrs. Klampe;", RP 419; "why she was motivated to change her story." RP 450. The jurors were not asked to render a verdict based on their personal interests. There was nothing improper about the argument.

Even if the argument were error, which the State does not concede, Lennartz failed to object or ask for a curative instruction. Any error is waived unless the challenged statements were so flagrant and ill intentioned that an instruction could not have cured the prejudice which resulted. Emery, 174 Wn.2d at 760-61. These statements cannot be characterized as flagrant and ill intentioned. The prosecutor's initial closing argument occupies 32 pages of transcript, RP 396-99, 404-31, and took 43 minutes. CP 70. Rebuttal took seven minutes and eight and a half pages of transcript. CP 70. "Any allegedly improper statements should be viewed within the context of the prosecutor's entire argument, the issues in the case, the evidence discussed in the argument, and the jury instructions." Dhaliwal, 150 Wn.2d at 578. Considering the challenged remarks in the context of the entire trial, as the court must, there was no error.

3. Because the prosecutor's argument was not objectionable, defense counsel did not provide ineffective assistance by failing to object.

Lennartz argues that if this court finds he waived a challenge to the prosecutor's closing argument by failing to object, as the State urges this court to do, then his counsel provided ineffective assistance by that failure.

Claims of ineffective assistance of counsel are reviewed de novo. State v. White, 80 Wn. App. 406, 410, 907 P.2d 310 (1995). To prevail on a claim of ineffective assistance of counsel, an appellant must show that (1) counsel's performance was deficient; and (2) the deficient performance prejudiced him. State v. Thomas, 109 Wn.2d 222, 225-26, 743 P.2d 816 (1987). Deficient performance occurs when counsel's performance falls below an objective standard of reasonableness. State v. Stenson, 132 Wn.2d 668, 705, 940 P.2d 1239 (1997), *cert. denied*, 523 U.S. 1008 (1998). An appellant cannot rely on matters of legitimate trial strategy or tactics to establish deficient performance. State v. Hendrickson, 129 Wn.2d 61, 77-78, 917 P.2d 563 (1996). Prejudice occurs when but for the deficient performance, the outcome would have been different. In re the Pers. Restraint of Pirtle, 136 Wn.2d 467, 487, 965 P.2d 593 (1996). There is great

judicial deference to counsel's performance and the analysis begins with a strong presumption that counsel was effective. Strickland v. Washington, 466 U.S. 668, 689, 104 S.Ct. 2052, 80 L. Ed. 2d 674 (1984); State v. McFarland, 127 Wn.2d 322, 335, 899 P.2d 1251 (1995). A reviewing court need not address both prongs of the test if the defendant makes an insufficient showing on one prong. If it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, that course should be followed. Strickland, 104 S. Ct. at 1069-70.

"Because many lawyers refrain from objecting during opening statement and closing argument, absent egregious misstatements, the failure to object during closing argument and opening statement is within the 'wide range' of permissible professional legal conduct." United States v. Necoechea, 986 F.2d 1273, 1281 (1993), *citing to* Strickland, 466 U.S. at 689. As argued above, the statements in the prosecutor's closing argument were not error at all, much less so egregious that a failure to object constitutes ineffective assistance of counsel.

Lennartz argues that had his attorney objected, the objection would certainly have been sustained. Appellant's Opening Brief at

20. But shortly before the first argument which he now challenges, Lennartz's counsel did object.

> [PROSECUTOR]: You all only heard the four phone calls but we know that there were many, many phone calls, and can you imagine what it would be like to receive—
>
> [DEFENSE COUNSEL]: Your Honor, I'm going to object to imagining to receive.
>
> THE COURT: This is argument. I'll allow the jury to make whatever inferences they wish. Continue, please.

RP 417.

Lennartz has not assigned error to the trial court's ruling. Given that ruling, defense counsel would not have expected further objections to be sustained, contrary to Lennartz's assertion now that there was no tactical or strategic reason for failing to object. Clearly the trial court did not find this argument improper. Since an objection was overruled, Lennartz cannot show that, had his attorney objected, the outcome of the trial would likely have been different, which is the standard for finding prejudice.

> It is not enough for the defendant to show that the errors had some conceivable effect on the outcome of the proceeding. Virtually every act or omission of counsel would meet that test, and not every error that conceivably could have influenced the outcome undermines the reliability of the result of the proceeding.

Strickland, 466 U.S. at 693 (internal quotation omitted). Thus, the focus must be on whether the verdict is a reliable result of the adversarial process, not merely on the existence of error by defense counsel. Id. at 696.

Here there was no error and no prejudice.

D. CONCLUSION.

Lennartz challenges only his conviction for tampering with a witness. There was sufficient evidence to support that conviction and the prosecutor's closing argument was not error. Counsel was not ineffective. The State respectfully asks this court to affirm his convictions.

Respectfully submitted this 22d day of July, 2014.

Carol La Verne

Carol La Verne, WSBA# 19229
Attorney for Respondent

THURSTON COUNTY PROSECUTOR

July 22, 2014 - 10:03 AM

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